



Arizona Department of Education

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# **AZ-TAS**

## **Guidelines for Extended School Year Services**

Exceptional Student Services  
May 2004

The intent of the following document is to provide guidance for school staff and parents regarding the legal provisions for extended school year services. The document provides an overview of the most commonly asked questions and answers about issues surrounding the provision of extended school year services.

## **Extended School Year Services**

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## Overview

The Individuals with Disabilities Education Act (IDEA) gives educators the responsibility to develop and deliver free appropriate public education (FAPE) to children with disabilities. IDEA defines FAPE as special education and related services that are provided at public expense and are provided in conformity with an individualized education program (IEP).

A central issue to the determination of FAPE is the IEP team's decision as to what services are *appropriate*. The process of IEP development ensures that children with disabilities have *appropriate* education planning, based on *appropriate* evaluation, to accommodate their unique instructional needs; it also ensures that these needs are met in an *appropriate* learning environment. The IEP process ensures that children with disabilities receive an *appropriate* education.

Another issue regarding appropriate education is whether the educational program is sufficient to provide meaningful educational benefit. The concept of benefit is an integral part of the IEP process. The IEP team examines a child's present level of educational performance or development, as well as the child's ability to progress beyond that level if provided with an effective program. If that program results in measurable advancement toward goals and objectives or benchmarks that are appropriate for the child, then the child has received an appropriate education because he or she has benefited from his or her schooling. Thus, progress towards goals and objectives or benchmarks and documentation of that progress become core concerns in the provision of FAPE.

Some children with disabilities may not receive FAPE unless they receive needed services during time periods when other children, both disabled and nondisabled, normally would not be served. As part of the IEP process, the team must determine if a child needs a program of special education and related services extending beyond the normal school year. For such a child, restricting services to a standard number of school days per year or school hours per day does not allow development of an education program that is truly individualized and benefits the child.

**A child with a disability may require extended school year (ESY) services in order to receive FAPE. This results in additional special education and related services to supplement the normal school year [ARS 15-881(D)].**

## Legal Authority for ESY

FAPE was first established in federal law by PL 94-142, the Education for All Handicapped Act. Since that time, the authority for interpreting and determining ESY requirements has come from case law. The federal regulations have not created new legal standards for ESY services but have brought together well-established case law in this area.

### Section 300.309 **Extended School Year Services**

[see also 34 CFR Part 300, Attachment 1-Analysis of Comments and Changes, *Federal Register*, p.12576]

#### (a) *General.*

- (1) Each school shall ensure that extended school year services are available as necessary to provide FAPE, consistent with paragraph (a)(2) of this section.
- (2) Extended school year services must be provided only if a child's IEP team determines, on an individual basis, in accordance with §§300.340–300.350, that the services are necessary for the provision of FAPE to the child.
- (3) In implementing the requirements, a school may not:
  - (i) Limit extended school year services to particular categories of disability; or
  - (ii) Unilaterally limit the type, amount, or duration of those services.

(b) *Definition.* As used in this section, the term *extended school year services* means special education and related services that:

- (1) Are provided to a child with a disability:
  - (i) Beyond the normal school year of the school;
  - (ii) In accordance with the child's IEP; and
  - (iii) At no cost to the parents of the child; and
  - (iiii) Meet the standards of the state.

(Authority: 20 U.S.C. 1412(a)(1))

The Analysis of Comments and Changes that accompanied the IDEA '97 Federal Regulations provides clarification of responsibilities for ESY services:

- It is the obligation of the school, including charter schools, to ensure that children with disabilities who require ESY services in order to receive FAPE have the necessary services available to them.
- The individualized determination about each child with a disability's need for ESY services are made through the IEP process.
- The right of an individual child to ESY services is based on that child's entitlement to FAPE.

The determination as to whether a child with a disability needs ESY services must be made on an individual basis as a part of the IEP process. The critical question that each IEP team must ask regarding ESY services is whether the learning that occurred during the regular school year will be significantly jeopardized if ESY services are not provided.

In the state of Arizona, extended school year services are addressed in special education statutes [A.R.S. §15-881] and rules [A.A.C. R7-2-408]. The provision of extended school year applies to all public education agencies.



### **What have the courts said about extended school year services?**

*JH v. Henrico Cty. School Bd.*, 326 F.3d 560 (4th Cir. 2003) This case involved a student who was seeking to receive ESY services at the same level and frequency of his previous year's IEP, and the school district refused. The court found that ESY services are only necessary to the provision of FAPE when the benefits a disabled child gains during a regular school year will be significantly jeopardized if he is not provided with an educational program during the summer months. The mere fact of likely regression is not a sufficient basis, because all students, disabled or not, may regress to some extent during lengthy breaks from school.

*MM v. School Dist. Of Greenville Cty.*, 303 F.3d 523 (4th Cir. 2002) In this case, the court determined that ESY services are only necessary to FAPE when the benefits a disabled child gains during a regular school year will be significantly jeopardized if he is not provided with an educational program during the summer months. The determination as to whether services beyond the regular school year are essential for the child to receive any educational benefit is necessarily fact and case specific. Because a showing of actual regression is not required, a disabled child's need for ESY services may be established by expert testimony, based on a professional individual evaluation. However, the mere fact of likely regression is not a sufficient basis, because all students, disabled or not, may regress to some extent during lengthy breaks from school. ESY services are required under IDEA only when such regression will substantially thwart the goal of "meaningful progress."

*Cordrey v. Euckert*, 917 F.2d 1460 (6th Cir. 1990) This court found that it is not required absolutely that a child demonstrate that he has regressed in the past to the serious detriment of educational progress in order to prove the need for a summer program. Instead, where there is no such empirical data available, need may be proven by expert opinion, based upon a professional individual assessment. In order to demonstrate the need for ESY, there must be something more than a need to avoid "adequately recoupable regression." More specifically, it must be shown that ESY is "necessary to permit [the child] to benefit from his instruction." If the child benefits meaningfully within his potential from instruction under a proper IEP over a regular school year, then ESY services may not be required under IDEA unless "the benefits accrued to the child during the regular school year will be significantly jeopardized if he is not provided ESY." Factors to look at include: tendency to regress, prior regression, ability to recoup lost skills, and progress towards

educational goals. The legal issue is whether these facts meet the standard of significant skill losses of such degree and duration as to seriously impede progress toward educational goals.

*Johnson v. Independent School Dist. of Bixby*, 921 F.2d 1022 (10th Cir. 1990) This court was asked to determine what information should be considered as a basis for entitlement under IDEA to a free extended year school program in addition to the traditional September through May 9-month school program. The court determined that the issue for schools to look at is whether the benefits accrued to the child during the regular school year will be significantly jeopardized if he is not provided an educational program during the summer months. The analysis as to whether the child's level of achievement would be jeopardized by a summer break in his or her structured educational programming should proceed by applying not only retrospective data, such as past regression and rate of recoupment, but also should include predictive data, based on the opinion of professionals in consultation with the child's parents as well as circumstantial considerations of the child's individual situation at home and in his or her neighborhood and community.

The court in this case noted that the lower court and those who conducted the administrative process erred by applying a single, inflexible criterion (i.e., past regression) instead of a multifaceted inquiry (such as the degree of the child's impairment, the ability of the child's parents to provide the educational structure at home, the child's rate of progress, his or her behavioral and physical problems, the availability of alternative resources, the ability of the child to interact with nonhandicapped children, the areas of the child's curriculum that need continuous attention, the child's vocational needs, and whether the requested service is "extraordinary" to the child's condition, as opposed to an integral part of a program for those with the child's condition).

*Alamo Heights Independent School Dist. v. State Bd. of Education*, 790 F.2d 1158 (5th Cir. 1986) This case challenged a school district's policy of offering a half-day, one-month ESY program (with no transportation) to all special education students. The court held that if a child will experience severe or substantial regression during the summer months in the absence of a summer program, the handicapped child may be entitled to year-round services. The issue is whether the benefits accrued to the child during the regular school year will be significantly jeopardized if he is not provided an educational program during the summer months.

# Extended School Year Services

**Extended School Year (ESY)** means special education and/or related services provided beyond the normal school year or normal hours of the school day (for the child's grade level) of the public education agency for the purpose of providing FAPE to a student with disabilities.

These services are distinct from enrichment programs, summer school programs, and compensatory services and are not just an extension of time or duplication of regular school year services. ESY services are not so much a regression–recoupment issue as they are an issue of FAPE and meaningful educational benefit.

ESY services are provided to a student when the educational benefits gained during the regular school year are significantly jeopardized by a break in service. ESY is necessary to enable a student to benefit from instruction received during the regular school year, and the lack of ESY services would thwart the goal of maintaining meaningful progress gained during the regular school year.

ESY services are a result of an individual determination of the IEP team and focused on critical learning skills, but not based upon the category of disability. While the need for ESY services is the exception rather than the rule, it is the responsibility of the IEP team to consider the need for ESY, on at least an annual basis, for every student.



## Who is eligible for ESY services?

All children with disabilities who have a current IEP must be considered for ESY services at least annually. To ensure FAPE, the IEP team must consider and document whether ESY services are needed for each child regardless of the child's disabilities. The federal regulations clarify that a school may not limit ESY services to particular categories of disability, or unilaterally limit the type, amount, or duration of those services. These requirements apply to all children with a disability from the ages of 3 through 21.



## Who determines the need for ESY services?

Determination of need rests with the IEP team, which must be composed of the following individuals: parent(s); the child, if appropriate; general education teacher(s); special education and related service providers; administrator or school representative; and others, as appropriate. IDEA intends that all persons involved in the IEP process be active participants. Each person fulfills an important role by bringing and sharing critical information about the child and his or her need for ESY services. IEP documentation must indicate the participation of all required participants.





### **When should an IEP team meet to determine the need for ESY services?**

The team must consider the need for ESY services at the annual IEP meeting. However, under some circumstances, the need for ESY services may not be known at the time of IEP meeting. In that case, the team may identify the date it will reconvene to determine needs and services, but that date must be no later than 45 calendar days from the end of the school year. The team may also plan what data should be gathered to assist them in making the later determinations. When the ESY determination is ultimately made, the IEP team must document the decision on the IEP.



### **How often must a child be considered for ESY?**

All children with disabilities must be considered for ESY services at least annually.



### **What determines the need for ESY services?**

Schools may not automatically or categorically exclude, or include, any group. Instead, decisions about ESY services must be made according to the individual needs of students. Eligibility determinations must be made annually. It should not be automatically assumed that a child who receives ESY one year will be eligible the following year, although it is one factor to consider when making a decision.

ESY focuses on critical learning skills that impact maintenance of educational benefit and loss of FAPE. Critical learning skills may include communication skills, self-help skills, social-emotional skills, and motor skills. Loss of a specific academic skill may not qualify the student for ESY services unless it results in loss of meaningful educational benefit.

The determination of ESY eligibility is NOT a formula-driven decision; rather it is a multi-faceted inquiry, considering both retrospective data and predictive data. The IEP team must conduct a thorough review of existing and predictive data to determine whether data meets the standard of significant skill losses of such degree and duration as to seriously impede progress toward educational goals and loss of educational benefit.



### **What factors should be considered when determining the need for ESY services?**

The IEP team must decide the manner for determining eligibility for ESY services. In most cases, a multi-faceted determination is appropriate in determining ESY eligibility, but for some students, a determination based on only one criterion may be appropriate. The IEP team shall consider both retrospective data as well as predictive data when making a determination.

1. **Retrospective Data:** data that currently exists, which can be verified through observation, data collection and review, or written reports of performance or behavior, etc. Types of retrospective data may include:
  - a. Past Regression: data that demonstrates **significant** regression of previously learned skills during a break in service.
  - b. Rate of Recoupment: **significantly** delayed or limited recoupment of regressed skills after services resume. When the amount of time required to relearn skills or behaviors becomes so significant that it interferes with ongoing educational progress, the recoupment factor becomes significant.

While regression–recoupment measures are part of the determination process, they are not the only measures. Data that meets the standard of significant skill losses of such degree and duration as to seriously impede progress toward educational goals and loss of educational benefit would indicate a need for ESY services.

2. **Predictive Data:** when sufficient empirical data is not available, data based on expert opinion, past history, circumstances, type and severity of disability, availability of alternate resources, and situations unique to the student may be used. Types of predictive data may include:
  - a. Expert Opinion: data based upon a professional individual assessment.
  - b. Circumstantial Considerations: information based on unique situations in the child’s home, neighborhood, or community.
  - c. Anecdotal Reports: reports from teachers, parents, caregivers, and related service personnel.



## **How is the need for ESY services measured?**

Determination of the need for ESY cannot be based on a formula. Formulas lack the individualization that ensures that children with disabilities have appropriate educational planning to accommodate their unique needs. Case law supports this conclusion: the determination of need for ESY services cannot be based on a policy that prohibits or inhibits full consideration of the needs of each child with a disability. The IEP team’s review determines if the learning that has occurred will be significantly jeopardized if ESY services are not provided during an extended interruption in services.

Information can be gathered through a variety of informal and formal measures. Those measures may include a record of daily performance, criterion-referenced and norm-referenced test data, anecdotal records from information collected throughout the year, behavior checklists, outside provider reports, student work samples, etc.

In addition to the valuable information already being gathered to determine progress toward annual goals and short-term objectives or benchmarks, a child's IEP team should consider the following points in determining the need for ESY services:

- retrospective information that reflects the child's performance after long weekends, short breaks, vacations, and past summer breaks, etc.,
- prior experience with regression–recoupment, and
- predictive information including historical data, professional evaluations, etc.

In considering evidence of regression, a team should select information that is measurable. The minimum points of measurement are:

1. at the end of instruction (e.g., the end of the school year and prior to school year recesses);
2. at the beginning of subsequent instruction (e.g., the beginning of the next school year and after returning from school year breaks); and
3. at the time of recoupment (e.g., the date of regaining skills that had been attained last May and prior to the school year break).



### **When is the need for ESY considered significant?**

The determination as to whether services beyond the regular school year/day are essential for the student to receive any educational benefit is necessarily fact and case specific. ESY services are only necessary to FAPE when the benefits a child with a disability gains during a regular school year will be significantly jeopardized if he or she is not provided with educational services during the summer months or school year recesses.



### **Is the IEP team required to demonstrate regression before ESY services are provided?**

A showing of actual regression is not required; a disabled child's need for ESY services may be established by expert testimony, based on a professional individual evaluation. However, the mere fact of likely regression is not a sufficient basis, because all students, whether they have a disability or not, may regress to some extent during lengthy breaks from school. ESY services are required under IDEA only when such regression will substantially thwart the goal of "meaningful progress."

(*JH v. Henrico Cty. School Bd.*, 326 F. 3d 560 [4th Cir. 2003]; *MM v. School Dist. of Greenville Cty.*, 303 F. 3d 523 [4th Cir. 2002]; *Alamo Heights Indep. School Dist. v. State Bd. of Ed.*, 790 F. 2d 1158 [5th Cir. 1986]; *Cordrey v. Euchert*, 917 F. 2d 1460 [6th Cir. 1990]; *Johnson v. Independent School Dist. of Bixby*, 921 F. 2d 1022 [10th Cir. 1990]; Letter to Anonymous, 22 IDELR 980 [OSEP 1995])



**Does involvement in ESY one summer assure involvement the following summer?**

No. A child's involvement in ESY services one year does not automatically guarantee services in the following years. Similarly, the fact that no ESY services were provided in a prior year does not mean ESY services are not needed in the current year. The decision is made on an annual basis.



**If a child doesn't meet all IEP goals, objectives, or benchmarks during the regular school year, are ESY services required?**

No. ESY services should not be granted solely on the basis of the child's not achieving one or more IEP goals and objectives or benchmarks. The critical question that each IEP team must ask regarding ESY services is whether the learning that already occurred during the regular school year will be significantly jeopardized if ESY services are not provided.



**Should new goals and objectives or benchmarks be developed for ESY services?**

No. ESY services address the maintenance of previously learned skills, as identified in the current IEP. The purpose of providing ESY services is not to teach new skills. Therefore, new goals and objectives or benchmarks should not be added to a child's IEP for implementation during ESY services.



**How does the IEP team determine the appropriate amount of ESY services for a student?**

The determination of the extent of adequate services must be made on an individual basis after a thorough review of all the retrospective and predictive data. The IEP team must determine how much time is needed to ensure that the benefits gained during the regular school year will not be significantly jeopardized.



**How do LRE requirements relate to decisions about ESY?**

While ESY services must be provided in the least restrictive environment, a school is not required to create new programs as a means of providing ESY services to children with disabilities in integrated settings if the school does not provide services at that time for its nondisabled children. Thus, LRE considerations for ESY are not identical to LRE considerations that apply during the regular school year. The full continuum of educational options is usually not available during ESY, and according to the U.S. Department of

Education/Office of Special Education Programs (USDoE/OSEP), the school is not required to create such a program for that sole purpose.



## Where can ESY services be provided?

The same U.S. Department of Education/OSEP source states that a school is not prohibited from providing ESY services in a noneducational setting, if the child's IEP team determines that the child could receive appropriate services in that setting. The characteristics of services, including location and LRE considerations, should be based upon the unique needs of the child. The IEP team should consider a flexible service model that takes those needs into account. For some children, the appropriate LRE could be at home with the other family members and with only very limited ESY services.

ESY services are intended to minimize the effects of significant regression that **cause loss of educational benefit**. Because of this focus, ESY services may differ markedly from the services provided to a child during the school term. Services would logically be modified in a way to enhance generalization and maintenance of skills. As with any IEP, the needs of the child dictate the services, rather than the available programs dictating the services to be provided to the child.

Individualized ESY services could be provided in a traditional classroom setting; however, the location and nature of service delivery can vary with the needs of the child. Other appropriate service delivery options could include:

- school-based programs that vary in length of schedule (e.g., 2 weeks, 6 weeks, 10 weeks);
- grouping of children with similar goals and objectives or benchmarks;
- intra-school cooperative programs (e.g., Title 1);
- a cooperative program with another agency;
- limited child contact, perhaps 3–4 times during the summer to prevent regression;
- a week of intensive review just prior to the beginning of the school year;
- multi-school shared programs;
- contractual arrangements;
- community-based programs;
- transition opportunities; or
- services provided by the parent in the home and supported by school personnel.

Some children may need services provided in the home or at an alternative location. Some children might benefit most by providing training to the parent in advance of long breaks in

regular school schedules. The teacher and parent would work together, with materials sent home. The teacher would periodically monitor progress. Such home consultation prior to the vacation and at intervals during the vacation, if needed, could provide support and instruction to parents in preventing regression. It offers the additional benefit of increased opportunities for practice and generalization across settings. However, a school cannot simply choose to delegate its responsibilities for providing ESY services to the parents. The option of home consultation would depend upon availability of parents throughout the ESY day, their desire to assist, the complexity of their child's needs, as well as many other factors.



### **Who can provide ESY services?**

IDEA does not specifically require an indication of who (i.e., the position) is providing a service. To provide clarification and reduce misunderstandings, it is suggested that the IEP specify the position of the person(s) providing the service(s). This may include one or more of the following:

- certified or licensed professionals,
- trained and supervised paraprofessionals,
- contracted providers through other agencies,
- family members.



### **Is the IEP team required to document the eligibility for ESY services?**

Yes. After the child's IEP team has completed the discussion regarding ESY, their decision must be documented on the IEP. The IEP meeting during which ESY needs and services are determined should be accomplished in sufficient time to permit any party to exhaust administrative remedies prior to the beginning of the ESY services, but no later than 45 calendar days before the end of the school year.

A prior written notice (PWN) shall be completed to notify the parents of whatever ESY determinations have been made. Proper completion of all components of the PWN may document the justification for the ESY eligibility determination [§300.503 (2)(b)].



### **How does an IEP team document ESY services?**

Documentation of ESY services shall specify which goal(s) will be reinforced during ESY services. Documentation shall describe the type of services (such as direct instruction, specific related services, consultation, or supervision), the beginning date of services and the ending date of services, the minutes per week of each service, and where the service will be provided.

## Related Services



### **Must the IEP team consider the provision of related services as ESY services?**

Yes. The IEP meeting participants must consider whether the child requires related services, including transportation, in order to prevent loss of meaningful progress gained during the year.



### **Is it necessary to show regression–recoupment separately for related services for the child to receive related services during ESY?**

No. A separate showing of significant regression and poor recoupment of skills is not required to establish the need for related services. What is required is evidence that related services are needed to assist the child to benefit from special education, thus assuring FAPE.



### **May a school provide related services as a sole component of ESY?**

The decision as to whether the child should be provided related services as the sole component of extended school year services is the responsibility of the IEP team. The team should consider whether, without such ESY related services, there would be significant regression problems in the child's special education program when school resumes. If a child needs only a related service during ESY, it must be provided.

When determining eligibility for ESY services, the IEP team must also review and consider related services. While a child may not need extended school year special education, that child may need extended school year related services in order to benefit from special education when school resumes during the school term. In this instance, the related services may be the sole component of the extended school year services required.



### **Is transportation provided as part of ESY?**

Transportation is a related service and must be offered if it is necessary for the child to access ESY services outside the home. If necessary, transportation should be added as a related service for the duration of ESY services.

## ESY Services versus Summer School



### **May the child's ESY services be provided in a school's optional summer school program?**

Yes. The summer school setting could offer unique and appropriate opportunities for a child to enhance generalization of skills in a setting very similar to that of the regular school year, as well as provide frequent practice for maintenance of skills. However, ESY services must be tailored to the unique needs of the child and cannot be based solely on the availability of services during the summer. The amount and duration of ESY services cannot be limited arbitrarily to the district's summer school schedule, and must be at no cost to the parent.

When choosing this service delivery option, it is recommended that special education personnel collaborate with summer school staff, informing them of needed modifications and accommodations based upon the child's needs. Documentation of which goals and objectives or benchmarks have been selected as essential skills to be addressed by ESY services and delivered through summer school programming would be included within the team's documentation.



### **Must a school provide modifications and accommodations for a child who chooses to attend summer school and does not need ESY services?**

All children with IEPs are entitled to accommodations within their educational program. Since these children are also eligible under Section 504 of the Rehabilitation Act of 1973, it is best to consult with the summer school teachers and inform them of the needed modifications and accommodations as stated in the child's IEP. Under Section 504, a school cannot discriminate against a child with a disability in any program and/or activity offered by that school. Summer school courses are a program offered by the school and therefore cannot discriminate against the child because of his or her disability.



The following chart provides a comparison of ESY and summer school services:

Summer School	Extended School Year
<b>Definition:</b> An optional or permissive program provided beyond the regular school year. A school may elect to operate summer classes or not.	<b>Definition:</b> Services required by IDEA to be provided beyond the traditional school year/day for any child with a disability who needs special education services and/or related services in order to receive a free appropriate public education (FAPE), thus maintaining meaningful educational progress.
<b>Purpose:</b> Teaching new content or enrichment; offering recreational or academic opportunities not present during the regular school year. Children with and without disabilities benefit from additional educational opportunities.	<b>Purpose:</b> Assuring a child's meaningful progress during the regular school year (FAPE) by maintaining learned skills and preventing loss of critical learning skills. If services are not provided, the child's skills are temporarily or permanently lost, jeopardizing progress. ESY services are not provided for the purpose of helping children with disabilities advance in relation to their peers.
<b>Cost:</b> Often on a fee basis.	<b>Cost:</b> Free to parents.
<b>Duration:</b> Typically operated on a set schedule for a number of weeks during the summer (e.g., 2, 6, or 10 weeks) for all those who participate.	<b>Duration:</b> Schedule, setting, and extent of services designed to meet the individual needs of a child in order to assure FAPE. The amount and duration of services cannot be determined arbitrarily by a school's summer school schedule.
<b>Instruction:</b> General education setting, based on needs and interests of all children.	<b>Instruction:</b> Specially designed instruction based upon a child's individual needs provided to prevent loss of critical learning skills.
<b>Eligibility:</b> A child's participation does not depend on an IEP team determination of need.	<b>Eligibility:</b> IEP team determines need and extent of services necessary to prevent loss of meaningful progress and educational gains.

## Procedural Safeguards



### **What are the procedural safeguards regarding ESY?**

Parents are entitled to a meaningful opportunity to fully participate in discussion of their child's needs and the development of their child's educational plan, which includes the ESY decision, and they must be fully informed of the ESY determination process.

Because consideration of ESY is a required component of **every** annual IEP, provision of procedural safeguards and written meeting notice for the annual development of the IEP constitutes adequate notice. Written meeting notice affords the parents the opportunity to participate in the determination of that decision.

If the parent is not available during an IEP meeting, a copy of the IEP and prior written notice (PWN) must be provided to them documenting the team decisions. Parents are not required to respond immediately upon receipt of the notice or upon being informed during the IEP meeting. Such notice gives the parents a chance to request reconsideration if the team determines that ESY is not appropriate for their child. The school would need to respond to any team member's request for reconsideration made outside of the IEP meeting. A meeting notice would then provide new meeting information if the team planned to reconvene.



### **If a parent requests ESY services or a change in services outside an IEP meeting, what process should be followed?**

If a parent requests reconsideration of the ESY decision outside of the team meeting and the team has already made a determination regarding ESY services and the extent of those services, then the school must respond in one of 2 ways:

1. if the school is going to reconvene the IEP team to consider the parent's request, a written meeting notice and procedural safeguards notice must be provided to the parents; or
2. if the school denies the request, then a prior written notice (PWN) must be provided to the parent stating the reasons for the denial.

It is recommended that the parties attempt to resolve any disagreements locally through informal means, working through the school administration whenever possible. In addition to informal dispute resolution processes, a parent has the right to file a complaint or to request mediation or a due process hearing when disagreeing with an IEP team's decision(s) regarding ESY.



### **What process should be followed if a parent does not agree to the child's receiving ESY services?**

Some parents will decide not to have their child participate in ESY services, even if the child qualifies. If the family chooses to reject all ESY service options, the team should document this decision. Because compulsory attendance laws do not extend to days beyond the traditional school year, a school cannot compel a student to participate in ESY services.



### **What is the status of a child's ESY services when there is a dispute over proposed services?**

The IEP team shall make decisions regarding the provision of ESY early enough in the school year to allow parents time to request administrative remedies when they disagree with a team's denial of services, but no later than 45 calendar days before the end of the school year. If the parents disagree with the decision of the IEP team not to provide ESY services and the timing of the decision does not allow sufficient time to obtain resolution of the dispute, then the provisions of "stay put" apply. If a hearing officer finds in favor of the parent, compensatory education services may be ordered.

## Special Circumstances



### **How are ESY services determined for a child turning 3 during the summer months?**

§300.121(c)(1) states that a child with a disability must receive FAPE no later than the child's third birthday. The analysis of comments that accompanied the Federal Regulations state, "The IEP or IFSP will specify whether services must be initiated on the child's third birthday for children with disabilities who transition from the Part C to the Part B program, if the child turns 3 during the summer." [34CFR Part 300, Attachment 1—Analysis of Comments and Changes, *Federal Register*, p. 12577].

When a child with a disability reaches the third birthday during the summer, some necessary personnel may not be available. Therefore, personnel must ensure that a meeting is held at least 90 days prior to the third birthday while necessary personnel are available. The IEP or IFSP developed for a child who will reach age 3 during the summer must specify the child's program upon the third birthday, including ESY services, if needed by that particular child to receive FAPE. If ESY services are not needed to provide FAPE, the date of initiation of services would be the beginning of the upcoming school year.



### **Can children with disabilities who have been placed by their parents in private schools receive ESY services?**

The analysis of comments that accompanied the implementing regulations states, "As is true for determinations regarding services for children with disabilities placed in private schools by their parents, determinations regarding the services to be provided, including types and amounts of such services and which children will be served, are made through a process of consultation between representatives of public agencies and representatives of students enrolled by their parents in private schools.

Through consultation, if a determination is made that ESY services are one of the services that a public agency will offer one or more of its parentally-placed disabled children, Part B funds could be used for this purpose." [34CFR Part 300, Attachment 1—Analysis of Comments and Changes, *Federal Register*, p. 12577]. In Arizona, home-schooled children are regarded as enrolled in private schools, and, as such, may be considered for ESY services in the same manner as other unilaterally placed private school children.

# **Appendix A**

## **SAMPLE FORMS**

## Review of Extended School Year (ESY) Data

<b>Student</b>	<b>DOB</b>	<b>SAIS</b>
<b>School</b>	<b>Grade</b>	<b>Date</b>

Based upon the review of ESY data, the IEP team will determine if the student's critical learning skills will be significantly jeopardized if ESY services are not provided. Critical learning skills may include communication, motor, social/emotional, and self-help skills.

### **Critical learning skills that impact maintenance of educational benefit and loss of FAPE:**

### **Review of ESY Data**

The IEP team should consider all retrospective data and predictive data when determining the need for ESY services. Information can be gathered from a variety of formal and informal measures. Provide information below and attach additional documentation, if applicable.

#### **Retrospective Data** (data that currently exists)

- Observation:
- Describe how substantial regression and lack of recoupment will impact the student's opportunity to benefit from FAPE:
- Written Reports:
- Assessments:
- Report(s) from General Education Teacher(s):
- Report(s) from Related Service Provider(s):
- Student Work Samples:
- Attendance:
- Report from Parent(s):

- Other Information:

**Predictive Data** (data based on prior history, expert opinion, anecdotal reports, type and severity of disability, availability of alternate resources, and situations unique to the student)

- Prior History:

- Expert Opinion:

- Anecdotal Reports:

- Unique Circumstances:

- Alternate Resources:

- Other Information:

**ESY Eligibility Determination** Document the decision of the IEP team:

If the IEP team determines the student's critical learning skills will be significantly jeopardized if ESY services are not provided, identify the IEP goals to be reinforced during ESY:

Determine the extent of services based upon the review of all the retrospective and predictive data:

IEP Team Members	
Position/Relationship	Name
Parent	
Parent	
Student	
General Education Teacher	
Special Education Teacher	
LEA Representative	
Person interpreting evaluation results	
Other	

**Anywhere School District**  
**Regression and Recoupment Data for Extended School Year Services**

Student \_\_\_\_\_ DOB \_\_\_\_\_ SAIS \_\_\_\_\_  
 School \_\_\_\_\_ Grade \_\_\_\_\_ Data Collector \_\_\_\_\_

*Documentation of regression–recoupment is one method of data collection when ESY is being considered. This form may be used to collect and report data for each identified IEP goal for which regression–recoupment is suspected.*

**Annual IEP Goal** \_\_\_\_\_

Performance at end of School Year or before Break	Performance at beginning of next School Year or after Break	Performance after Instruction	Outcome
Date _____	Date _____	Date _____	<input type="checkbox"/> Maintained <input type="checkbox"/> Did not maintain <input type="checkbox"/> Recoupment after _____
Date _____	Date _____	Date _____	<input type="checkbox"/> Maintained <input type="checkbox"/> Did not maintain <input type="checkbox"/> Recoupment after _____
Date _____	Date _____	Date _____	<input type="checkbox"/> Maintained <input type="checkbox"/> Did not maintain <input type="checkbox"/> Recoupment after _____
Date _____	Date _____	Date _____	<input type="checkbox"/> Maintained <input type="checkbox"/> Did not maintain <input type="checkbox"/> Recoupment after _____

**Annual IEP Goal** \_\_\_\_\_

Performance at end of School Year or before Break	Performance at beginning of next School Year or after Break	Performance after Instruction	Outcome
Date _____	Date _____	Date _____	<input type="checkbox"/> Maintained <input type="checkbox"/> Did not maintain <input type="checkbox"/> Recoupment after _____
Date _____	Date _____	Date _____	<input type="checkbox"/> Maintained <input type="checkbox"/> Did not maintain <input type="checkbox"/> Recoupment after _____
Date _____	Date _____	Date _____	<input type="checkbox"/> Maintained <input type="checkbox"/> Did not maintain <input type="checkbox"/> Recoupment after _____
Date _____	Date _____	Date _____	<input type="checkbox"/> Maintained <input type="checkbox"/> Did not maintain <input type="checkbox"/> Recoupment after _____



## **Appendix B**

### **CASE STUDIES**

## Case 1

**Student:** SG  
**Category:** PMD  
**Grade:** PS  
**DOB:** 2/11/99  
**Date:** 3/25/04

### Prior history:

SG moved to the district from New Jersey in September 2003 and began services with the district 9/24/03. Records indicate he received ESY services from July through August 2003 in his previous district based upon concerns that he would regress in his language and readiness skills.

ESY special education services received summer '03:

3 hrs/day, 4 days/wk for 8 weeks; working on vocabulary, numbers, letters, shapes

Speech therapy:

60 min. wk/8 wks.; receptive and expressive language skills

Last evaluation indicated receptive and expressive language standard scores of 60 and 58, noting he is reticent to speak if he thinks he will not be understood. IQ score of 55 was questioned due to poor language skills and unwillingness to respond.

### Performance '03-'04:

Progress on IEP: slow but steady progress; once a skill is learned, he tends to keep it.

Pre- and post-break data: data charted for winter break and spring break show no significant regression on IEP goals mastered:

Color recognition/naming

9/03:	5/8 colors at 90%	
10/10:	6/8 colors at 85%	10/21: 80%
12/18:	8/8 at 80%	1/8/04: at 80%
3/12:	8/8 at 90%	3/23: 8/8 at 90%

(also can ID gold, silver, pink, gray at 90%)

Identifying/writing letters in upper case

9/03:	14 letters at 75%	
10/10:	16 letters at 75%	10/21: 70%
12/19:	19 letters at 75%	1/10/04: 18 letters at 80%
3/12:	23 letters at 80%	3/23: 23 letters at 80%

(also could ID Z, a letter not taught yet at 100%!)

Number sense (counting, naming, writing numbers 1-10)

9/03:	1-5 80%	
10/10:	1-7 at 70%	10/21: 70%
12/19:	1-10 at 80%	1/10/04: 70%
3/12:	1-10 at 80%	3/23: 80%

1-15 at 90% (counting, naming) 90%

#### Categorization by function/location

9/03: at 50%	
10/10: at 65%	10/21: 70%
12/19: 80%	1/10/04: 80%
3/12: 80% (function/location/type)	3/23: 80%+

#### Sentence length in complete sentences

9/03: MLU = 3	
10/10: MLU = 3-4	10/21: 3-4
12/18: MLU = 4	1/10/04: MLU = 4
3/11: MLU = 5	3/22: MLU = 5

#### Basic concepts (Boehm)

9/03: 14	
10/10: 14	10/21: 13
12/18: 18	1/10/04: 19
3/11: 21	3/22: 21

Several IEP goals will probably not be met due to slow acquisition of skills, at specified levels, but significant progress has been made on all goals. Critical skills areas include receptive and expressive language, though intelligibility is now at 80% or better to all listeners, consistently.

#### **Attendance:**

Missed 22 days, mostly due to upper respiratory infections.

#### **Parent input:**

Parent feels he will lose skills over the summer break; wants a full inclusion placement in kindergarten. Very concerned he has not made enough progress this year and so will not have the skills needed for regular kindergarten.

#### **Other information:**

Private SLP has provided progress reports showing growth but identifying significant delays compared to age peers; has recommended summer therapy to ensure he does not lose skills and continues to make progress, "critical learning stage" for language acquisition.

#### **Critical learning skills:**

*Consider the critical learning skills that impact maintenance of educational benefit and prevent loss of FAPE.*

## Case 2

**Student:** JR  
**Category:** SLD  
**Grade:** 5  
**DOB:** 6/2/93  
**Date:** 3/25/04

### **Prior history:**

JR has received district sp. ed. services in reading and written language since first grade. She received ESY services in summer of 2002 (reading) through the summer school program for 2 hrs/day, 4 days/wk for the 3-week session.

Last evaluation 10/14/02:

full scale IQ of 97	reading comprehension SS 82
reading decoding SS 76	written expression SS 74

### **Performance '03-'04:**

Progress on IEP: mastered 3/4 reading comprehension goals (4th GL); 2/3 decoding goals (3rd GL); met 1/4 written language goals (3rd GL); really struggles with spelling and punctuation. Cannot remember spelling rules and punctuation, but usually gets the ideas down on paper. Attention to task still an issue for her, though she tries to do better.

#### Pre- and post-break data:

May 03:

3 reading goals met (80%); 1 goal is at 70% (goal is 80%);  
1 written language goal met at 80%; 3 goals not met (60%)

August 03:

reading goal 1:	5/03 at 85%; 8/03 at 60%; after 3 weeks, at 80%
reading goals 2, 3, 4:	5/03 at 80%; 8/03 at 70%; after 3 weeks, at 80%
decoding goals 1, 2:	5/03 at 80-90%; 8/03 at 60%; after 3, at 80%
decoding goal 3:	5/03 at 50%; 8/03 at 30%; after 3 weeks, at 40%
written language:	goals at same level May to August (60-70%)
attending skills:	5/03 time on task 60% average; 8/03 average 60%

Dec. 03-Jan. 04:

no regression; all goals at same levels post-break

March 04:

Goal 3 written language regressed from 60% to 30%, up to 50% by day 3.  
Time on task was a significant issue after spring break, down to 40%; needed frequent reminders, motivators to focus on work; parents' divorce is very difficult for her, though she seems to be on the "up swing" now.

### **Classroom progress:**

JR can lead discussions if someone reads the material to her: she gets the concepts (may need some help with complex vocabulary) and gets work done if you stay on top

of her. She is capable of understanding grade level concepts, but the reading holds her back. She desperately needs help in the summer if she is to succeed in middle school. Fluency suffers because of decoding problems.

**Attendance:**

JR missed 3 days, tardy 1 day.

**Parent input:**

Parent feels she needs ESY because she is so far behind; feels the summer school program was not appropriate, too advanced for her. Upset that JR still cannot read her 5th grade social studies book but can discuss the topics in depth, if mom reads it to her.

**Other information:**

JR has a tough time focusing in on the details; does not see spelling/mechanics errors. She is beginning to make negative comments about herself because she does not see herself improving, and has made statements about her home situation. She is still far behind her peers in written language skills and will have difficulty in middle school next year with all core academics. She is just barely passing math (calculation errors), but knows the processes to use, even explaining how to do it to others. Critical skills are reading and spelling.

**Critical learning skills:**

*Consider the critical learning skills that impact maintenance of educational benefit and prevent loss of FAPE.*

### Case 3

**Student:** CB  
**Category:** AU  
**Grade:** 3  
**DOB:** 4/20/95  
**Date:** 4/1/04

#### **Prior History:**

CB has been in the district since preschool. He has not received ESY services before, as the family spends the summer out state, and has had him in private therapy sessions. Progress previously has been erratic, impacted by medications, food allergy reactions, change in sitters, changes in routine, etc. He returns to school after breaks appearing to want to be here, but not knowing what to do. He “forgets” the schedule, routines, tasks, but then he will seem to spontaneously “remember,” almost as if a switch has been turned on.

#### **Performance '03–'04:**

Progress on IEP: erratic progress; plateaus then leaps to next step, but inconsistent in application of skills. Changes in classroom routine or environment upset him tremendously (tantrums, screams, runs, etc.). Recently has begun to use language to communicate needs, will seek the attention of someone to respond to his needs. He can use the computer to play games or do math and reading comprehension activities on a second grade level; reading fluency is at grade level or above (he can read almost anything, but comprehends poorly); has memorized math facts but cannot solve word problems beyond the first grade level. He is mainstreamed to a third grade classroom for social skills and vocabulary development; also attends special area classes with these peers.

Behavior on Mondays is poorer than on other days, it takes him a while to get back in the class routine. When the usual respite sitter was not available during the winter break, he came back to school totally disoriented and needed a couple of weeks to return to pre-break levels. The same held true for spring break, when the sitter was not available for the entire week.

#### Pre- and post-break data:

##### Reading goals:

5/16/03: met all goals at 80% or better

8/14/03: returned at 60%, after 5 weeks, at 80%.

Once the routine returned, the skills returned.

Math Goals: after 3 weeks, CB could perform all skills at the same level as in May; it was not that he lost the skills, but that he could not demonstrate them when asked. They “popped out” spontaneously, often when he was focused on a related task (e.g., when given a worksheet for multiplying by 1, 2, and 3, he was unable to do more than 1's; when making his calendar for specials [art, music, PE], he counted all the months for first semester and multiplied that by 2 to estimate the number of times he would

have art. He did the same for PE, noting that he had 2 fewer PE days because of the Thanksgiving holiday).

**Language goals:**

**Maintaining the topic:**

5/28: 70%    8/20: 50%    10/1: 75%  
12/17: 80%    1/6: 40%    1/16: 60%  
3/19: 80%    3/31: 50%

**Turn taking:**

5/28: 60%    8/20: 40%    10/2: 60 %  
12/17: 80% minimal cues    1/6: 50% moderate cues    1/16: 60% moderate cues  
3/18: 85-90%    3/30: 60%

**Following 2-3 step directions:**

5/27: 80%    8/21: 50%    10/2: 70% with familiar people  
12/17: 80%    1/6: 40%    1/16: 60%  
3/18: 70%    3/30: 40%

**Social/behavioral goals:**

**Gaining attention in an appropriate manner:**

5/27: 75%    8/22: 20%    10/1: 60%  
12/17: 80%    1/6: 30%    1/16: 30%  
3/18-80%    3/30-60%

Decrease inappropriate behavior (e.g., running, hitting, screaming to < 4 x per day:

5/27: 70%    8/21: 0% (10+ per day) VERY easily upset by change!

**Attendance:**

CB missed 1 day, but leaves early due to “overload” about 1 x each week.

**Parent input:**

Parent feels he needs therapy and much structure to continue throughout the summer. He will not be in private therapy as in the past, and will be in town for all but 2 weeks. Weekends are kept as structured as possible, but breaks are more difficult, as parents work and cannot keep the structure going with sitters. They want either an in-home therapist from 8:00 a.m.–5:00 p.m. to maintain routines and behavior, or in-school services, M-F, 9:00–3:00, with after school recreation programming to work on social and behavior skills in other contexts.

**Other information:**

Private providers (speech and OT) all concur in their reports that ESY is needed. They have recommended that the district provide daily OT and speech therapy (1 hour of each, plus small group therapy 2–3 times per week), as well as an “in-home therapist” to maintain structure while the parent is at work, or a full-day program.

**Critical learning skills:**

*Consider the critical learning skills that impact maintenance of educational benefit and prevent loss of FAPE.*

## Case 4

**Student:** HB  
**Category:** OI  
**Grade:** 3  
**DOB:** 11/2/95  
**Date:** 3/15/0

### **Prior history:**

HB has been a student in the district since preschool and was identified as a student with special needs by age 3. HB has spina bifida and has been working with the school nurse and physical and occupational therapists to learn daily living skills so he may function more independently. He uses a manual wheelchair. HB has good social skills. His achievement scores are 2.5 in reading and 2.2 in writing. He has received ESY services every year since he started in the district's preschool special education program.

### **Performance '03-'04:**

Progress on IEP: Annual goals address reading, writing, motor, and self-help skills. Regression–recoupment data indicate skills in reading and writing are recouped in a reasonable period of time after consistent instruction. Gross and fine motor skills and self-help skills regress during the summer break and other breaks during the school year, and recoupment is not consistent.

Pre- and post-break data: The special education teacher collected the following regression–recoupment data before and after the winter break:

#### For fine motor

Before break: performance on annual goal at 80%  
After break: performance at 70%  
After instruction: performance at 80% within 4 weeks

#### For gross motor

Before break: performance on annual goal at 75%  
After break: performance at 60%  
After instruction: performance at 70% within 4 weeks

#### For self-help

Before break: performance on annual goal at 75%  
After break: performance at 65%  
After instruction: performance at 75% within 4 weeks

### **Progress in the general education classroom:**

HB spends more than 60% of his day in the general education classroom. His 3rd grade teacher reports that he has lots of friends and sometimes spends more time socializing than focused on academics. But, she says HB is motivated and makes gradual progress in academic areas. The teacher wants him to be more independent; she says HB wants



to rely on his friends to push his wheelchair and do other tasks for him she believes he can do for himself.

**Attendance:**

HB missed 5 days due to doctor appointments.

**Parent input:**

Mother believes he should have ESY services because HB has always attended ESY since he was in preschool. She is not too concerned about his performance level in the academic content areas, but wants him to become fully independent with toileting. The mother is considering the purchase of a motorized wheelchair. If it is purchased by summer, she wants the physical therapist to teach HB the operation of the new wheelchair around the school grounds.

**Other information:**

The physical therapist has advised the mother to delay the purchase of a motorized wheelchair, at least for use at school. The PT believes HB needs to strengthen his upper body and work toward more independence at this time with his manual wheelchair.

**Critical learning skills:**

*Consider the critical learning skills that impact maintenance of educational benefit and prevent loss of FAPE.*

## Case 5

**Student:** MJ  
**Category:** SMR  
**Grade:** 8  
**DOB:** 1/14/90  
**Date:** 3/15/04

### **Prior history:**

MJ enrolled in the district 2 years ago during the school year, transferring from a school district in the southeastern corner of the state, where she had been a student for 3 months. Early educational history is sketchy. She received ESY services the last 2 summers in this district, which targeted goals on the Functional level of the Arizona Academic Standards in reading, mathematics, listening and speaking, and comprehensive health. Attendance the first year of ESY was erratic, but the second year of ESY the mother consistently had MJ ready for the bus each morning.

### **Performance '03-'04:**

Progress on IEP: Regression and recoupment data collected by the special education teacher indicate regression on all annual IEP goals, with recoupment not occurring within a reasonable time frame. Regression and recoupment of all skills is unpredictable. Regression–recoupment data collected before and after the winter break, and after instruction show MJ regressed on all IEP goals.

### Pre- and post-break data:

Reading: Associate common symbol with picture

Before winter break: performance at 55%

After winter break: performance at 25%

After instruction: performance at 40% within 8 weeks

Mathematics: Distribute items into equal sets

Before winter break: performance at 40%

After winter break: performance at 20%

After instruction: at 30% within 8 weeks

Listening and speaking: Initiate intentional communicative behavior to gain attention

Before winter break: performance at 75%

After winter break: performance at 50%

After instruction: at 65% within 8 weeks

Comprehensive health: Participate in maintaining cleanliness

Before winter break: performance on annual goal at 45%

After winter break: performance at 20%

After instruction: at 30% within 8 weeks

Newly developed transition plans focus on a functional curriculum with an emphasis on learning basic daily living skills. Mother wants MJ to live with her after high school. IEP team will collect information for mother about outside agencies that may assist family

with transitioning MJ to adult life.

**Progress in the special education classroom:**

MJ is in a self-contained special education classroom for the majority of the school day. She attends art class, special events, and eats in the cafeteria with her nondisabled peers. The special education teacher reports uneven progress on the Functional standards. MJ has “up and down” days and weeks; that is, learning seems to occur in unpredictable spurts. Behavior is not an issue.

**Attendance:**

Missed 13 days. Mother reports MJ had various appointments.

**Parent input:**

Mother says she just wants the best for MJ and believes the team will make the right decisions for her daughter. She says she will help MJ work on her skills this summer, if the teachers tell her what to do.

**Other information:**

Concern was noted about the effect of new seizure medication on MJ’s sporadic performance in school. School nurse will research and report information on this medication. Occupational and physical therapists and speech–language pathologist report MJ would benefit from ESY services to work on functional skills in all domains. Transportation in a special needs bus may be necessary for MJ to participate in ESY services.

**Critical learning skills:**

*Consider the critical learning skills that impact maintenance of educational benefit and prevent loss of FAPE.*

## Case 6

**Student:** DW  
**Category:** MIMR  
**Grade:** 1  
**DOB:** 4/29/97  
**Date:** 3/15/04

### **Prior History:**

DW entered our charter school this year as a first grade student. He was in a preschool special education class and kindergarten in a larger school district. His parents enrolled him here so he would have the availability of a low teacher-to-student ratio in a small school environment. DW attended ESY in the school district as a preschool student, but not after kindergarten. His parents report the district said he did not need ESY last year.

### **Performance '03-'04:**

Progress on IEP: Slow progress on IEP goals in reading, mathematics, and comprehensive health at the functional and readiness levels. Regression and recoupment data collected by special education teacher show regression during every break, and inconsistent recoupment during various time frames. DW has strongest skills, and best recoupment rates, in reading.

Pre- and post-break data: Regression–recoupment data from 2-week winter break:

Reading: Derive meaning from picture clues

Before break: performance at 80%

After break: performance at 70%

After instruction: performance at 80% within 4 weeks

Reading: Demonstrate understanding of print concepts

Before break: performance at 80%

After break: performance at 70%

After instruction: at 75% within 4 weeks

Mathematics: Demonstrate understanding of calendars

Before break: performance at 70%

After break: performance at 60%

After instruction: at 65% within 4 weeks

Mathematics: Demonstrate 1-to-1 correspondence

Before break: performance at 75%

After break: performance at 65%

After instruction: at 70% within 4 weeks

Comprehensive health: Identify and discuss safe behaviors and harmful behaviors

Before break: performance on annual goal at 65%

After break: performance at 50%

After instruction: at 60% within 4 weeks

**Progress in the general education classroom:**

First grade teacher is concerned about slow academic progress and also about level of social/emotional development and behavior. Special education teacher reports DW's progress is consistent with his ability level and believes steady progress is indicative of appropriate placement, curriculum, and instruction. Consulting school psychologist developed a behavior plan to modify inappropriate behaviors exhibited in the first grade classroom.

**Attendance:**

Missed 4 days.

**Parent input:**

Parents believe ESY is necessary to continue slow but steady progress on IEP goals. They also want DW to continue work on the behavior plan so behavior does not cause problems in the second grade next year. They have been implementing a similar behavior plan at home, to be consistent with school. They want DW in the general classroom environment and believe all services are necessary to maximize his inclusion with nondisabled peers.

**Other information:**

DW currently has speech–language services as a related service on his IEP for vocabulary, syntax, and time-related concept development. Based on IEP progress reports and informal assessment measures, the pathologist recommends continuation of language development activities during ESY. She reports that a 50-item language sample taken during calendar activities documents the need for DW to receive ESY.

**Critical learning skills:**

*Consider the critical learning skills that impact maintenance of educational benefit and prevent loss of FAPE.*

## Case 7

**Student:** AB  
**Category:** SMR / OI  
**Grade:** K  
**DOB:** 8/15/99  
**Date:** 3/25/04

### **Prior history:**

AB has been a student in this district since his transition from AzEIP. He began preschool services in August of 2002. AB receives most education in a self-contained classroom due to the level of care required. He receives physical therapy as a related service to increase muscle tone and prevent muscle contracture. AB also receives special transportation. Speech therapy and occupational therapy are provided with a goal of teaching AB to use a simple communication board. He attends the regular kindergarten class for approximately 20 minutes per day during story time. Among his IEP goals is self-toileting. Teaching staff reports that beginning 2 weeks ago AB began to inform staff of his need to toilet.

### **Performance '03-'04:**

Progress on IEP: AB should be in "pull-up" pants by the end of the current school year. Teaching staff is concerned that AB will lose this skill over an extended break from school.

### **Attendance:**

AB has never missed a day of school. Staff has been working on toileting goals since his first IEP.

### **Parent input:**

Parents both work. During school breaks, AB is cared for by an older (14 y/o) sister. Parents are concerned that their daughter does not have the skills to reinforce this goal. Furthermore, they feel AB should be in his school environment to practice this skill. Parents state they believe AB's benefit of FAPE will be significantly jeopardized if he is not able to practice this skill over the summer and that generalizing to the home environment may not yet be possible.

### **Other Information:**

AB's curriculum consists of goals and objectives from the functional level of the Arizona Standards. Basic self-help skills are stressed in his IEP. Teaching staff is in agreement that AB will probably need an extended period of time (9 weeks) to regain this skill if ESY is not provided. Teaching staff is not in agreement that this is a critical learning skill that will significantly jeopardize provision of FAPE.

### **Critical learning skill:**

*Consider the critical learning skills that impact maintenance of educational benefit and prevent loss of FAPE.*

## Case 8

**Student:** MN  
**Category:** MOMR  
**Grade:** 12  
**DOB:** 9/19/83  
**Date:** 3/25/04

### **Prior history:**

MN's family moved to the district 3 years ago. His family is adamant that MN be provided a strong transition component in his IEP that will lead to employment. MN has been employed at Goodwill Industries since the start of the current school year. The school district provides a job coach at the Goodwill site. The job coach works with 6 district students in the facility.

### **Performance '03-'04:**

Progress on IEP: MN is very sociable, and it has been difficult to get him to attend to his duties at the worksite. He has had different responsibilities and seems to work best in small groups of 2–3 other workers. When he is expected to work alone, he will spend most of his time visiting other workstations. When working with groups of more than 4, he cannot stay on task and often plays the role of “group clown.” As a result, his work environment has been modified so that he is at a workstation with 2 other clients. This arrangement has led to MN being on task at least 80% of the time.

Behavior on Mondays is less appropriate than on other days (50–60% on-task behavior). It takes him most of the day after a weekend break to get back in the work routine. Any extended breaks in his work routine require substantial periods of time for him to relearn his responsibilities and demonstrate proper workplace social skills. After winter break, MN returned to “work” with on-task behavior 40% of the time. He was back to 80% after 4 weeks.

### Pre- and post-break data:

Before weekend: on-task behavior at 80%  
After weekend: on-task behavior at 60%%  
By second day at worksite: performance at 80%

Before winter break: on-task behavior at 80%  
After winter break: on-task behavior at 40%  
After instruction: on-task behavior at 80% after 4 weeks

### **Attendance:**

Missed 8 days first semester. He has been at the worksite every day of the current semester. His job coach reports improved attitude and ability to attend to task; however, he still needs redirection and reinforcement a minimum of 6 times per day.

### **Parent input:**

Parents feel he needs the structure of the jobsite to continue throughout the summer.

Parents are requesting he continue at Goodwill Industries throughout the summer and that job coach services be provided.

**Other information:**

MN will turn 21 years old in September.

**Critical learning skill:**

*Consider the critical learning skills that impact maintenance of educational benefit and prevent loss of FAPE.*



## Case 9

**Student:** EJ  
**Category:** PSL  
**Grade:** Pre-K  
**DOB:** 5/2/01  
**Date:** 3/26/04

### **Prior history:**

EJ is transitioning from AzEIP to school services. Her IFSP provides for speech therapy 60 minutes/week and OT 60 minutes/week. She has received services for the past 8 months and has made, according to therapy reports, good progress in receptive and expressive language skills and in fine motor skills. She attends ABC Day Care daily while her mom is at work.

The speech–language evaluation performed in 6/03 indicated receptive language skills at a 24–30 month old level and expressive language skills at a 12–24 month old level. Articulation skills are characterized by the use of all vowel sounds, but only the consonants /m/, /n/, /b/ and /p/. The /g/ and /k/ can be produced with modeling in structured situations, but have not been used spontaneously. E’s tendency is to point and grunt or use “mama” to get what she wants.

The OT evaluation, performed 7/03, indicated low tone and a 10–12 month delay in fine motor skills, including poor grasp, upper trunk stability, and bilateral coordination. EJ prefers to have others do things for her, and may pout or tantrum if pushed to do things for herself. She responds to role reversal activities to attempt tasks as “the mommy.”

### **Performance '03–'04:**

EJ has improved OT skills significantly, according to therapist progress reports. She has a functional pincer grasp, will transfer objects from one hand to the other hand, and will use both hands on a variety of activities without prompts. Her sitting posture is much improved, slumping when she is either uninterested or “done” working.

Language skills have steadily improved, but slowly. EJ uses the /d/, /g/, and /k/ sounds spontaneously in the initial position and has begun to vocalize something for both syllables in a word, e.g., baby is now “baby” rather than “ba,” candy is now “nee nee” rather than “nee.” The therapist estimates receptive skills are now at an overall 30-month level, with expressive skills at 24 months overall. EJ is more cooperative in therapy sessions and will initiate the activity.

There have been no breaks in service in which to gather pre and post performances, but both the speech pathologist and occupational therapist have written that “services over the summer are essential to continued progress,” and that without services, EJ may regress.

**Parent input:**

The mother has requested ESY services as EJ is in a critical learning stage. She must continue services to ensure continued progress and so that she does not lose what she has gained. The parent's advocate is adamant about EJ's receiving ESY services in speech and occupational therapy, as well as having the district pay for the summer day care program, which would encourage use of language with peers and motivate her to do things for herself.

**Other information:**

AzEIP will discontinue services when EJ turns 3 years old on 5/2/04.

**Critical learning skills:**

*Consider the critical learning skills that impact maintenance of educational benefit and prevent loss of FAPE.*